

MINUTES  
BOARD OF ADJUSTMENT  
May 7, 2009

THOSE IN ATTENDANCE:

Gary Soule, Chairman	Jason Jaggi, Planner
Victor Cohen	Jeff Duke, Acting City Attorney
Rick Bliss	
Mel Disney	
Anne Bishop	

Chairman Soule called the meeting to order at 5:00 p.m. He welcomed everyone to the meeting, introduced himself and asked that the other members of the Board introduce themselves.

Chairman Soule stated that the members of this Board are appointed by the Mayor and approved by the City's Board of Aldermen and serve without monetary compensation. He indicated that a full compliment of the Board consists of five members and that four members must vote in favor of a variance in order for a variance to be granted. He stated that the applicant must demonstrate practical hardship with regard to the property in order to justify the granting of a variance. He then advised that this is a duly advertised, duly noted meeting and that the proceedings are of record.

Chairman Soule noted that there is a full compliment (5 members) of the Board this evening and that four (4) votes in the affirmative are needed in order for a variance to be granted.

Chairman Soule noted that there is one matter to be considered this evening and verified that the applicant was in attendance.

MINUTES

The minutes of the meeting of February 5, 2009 were presented for approval. Rick Bliss asked that the following corrections be made to Page 10, paragraph that begins "Ms. Harriet Gates". Change "Ms. Wolff's" to "Mr. Wolff's" and change "this morning" to clarify "afternoon". The minutes were then approved, as amended, after having been previously distributed to each member.

APPEAL FROM SIMON KATZ, OWNER UNDER CONTRACT, FOR THE PROPERTY AT  
8137-41 MARYLAND AVENUE

Simon Katz, owner under contract, was in attendance at the meeting.

Everyone wishing to speak this evening regarding the appeal was sworn in by the recording secretary.

Chairman Soule asked Jason Jaggi to provide an overview of the appeal.

Jason Jaggi began a PowerPoint presentation. Jason noted that this property was the subject of a previous appeal request, as the members probably recall. He noted that the property, which is now vacant, is zoned C-1 Neighborhood Commercial District, which is the most restrictive of the commercial districts. He noted that the applicant proposes extensive renovation to include a 352 square foot addition at the rear and the reconfiguration of the parking. He stated that due to the addition, the Zoning Ordinance requires one additional parking space, which is the subject of the appeal this evening. Jason informed the members that if an addition is 20% or less of the existing square footage, then the required parking is based upon the size of the addition, not the entire building and as such, one (1) parking space is required. (1 space/300 square feet).

Rick Bliss asked if an additional parking space would be required if this addition were less than 300 square feet.

Jason Jaggi replied “no”.

Chairman Soule asked if the 300 square feet number is for this case only or if the 300 square feet is triggered by the 20%.

Jason Jaggi replied “no”. He indicated that the number of required parking spaces is based on use (i.e. office/retail requires 1 space for each 300 gross square feet).

Jason Jaggi presented an aerial photograph of the area as well as site photos which depict the current building and parking. Jason reiterated that the parking is to be reconfigured to provide a more reasonable parking scenario.

Rick Bliss asked if the parking is currently not in compliance with the parking regulations and if the building is grandfathered in.

Jason Jaggi replied “yes”.

Rick Bliss again asked for confirmation that the reason this parking space is being required is because the addition is 300 or more square feet.

Jason Jaggi replied “yes”.

Rick Bliss asked how many parking spaces would be required if this were new construction (entire building).

Jason Jaggi replied “16”. He informed the members that this is a common scenario with the buildings that were constructed in the 1940’s. He stated that the current requirements are for 1

space for each 300 square feet and that this building is about 5,000 square feet. He stated to achieve that 16 space requirement, the building would have to be significantly reconfigured.

Chairman Soule asked if the City had any exhibits to present with regard to this appeal.

Acting City Attorney Duke noted that the City had the following exhibits to offer into evidence:

1. City's Code of Ordinances and Master Plan;
2. Application for Zoning Review submitted by applicant;
3. Zoning Review denial letter;
4. Application for appeal;
5. Drawings submitted by applicant;
6. Staff Report.

Rick Bliss noted that Staff's Report reads "Lot 10 & part of Lot 11" in the "Davis Place Subdivision" and it should read "Clayton Gardens Subdivision".

Staff concurred and indicated that the Staff Report would be corrected.

Gary Soule indicated that if there were no objections, the Exhibits would be received into evidence.

No objections were received.

Mr. Katz presented photographs of the site. He informed the members that the 352 square feet is based on filling in the corner and that a 6'8" X 7'10" section of the building is to be removed.

Chairman Soule stated that the photographs will be marked Applicant's Exhibit 1 (collectively).

Mel Disney commented that he believes it makes no matter what is being removed from a structure but rather parking is based on the size of an addition.

Jason Jaggi agreed. He stated he did not take into account what was coming off the building, but only considered the addition itself. He found it was in the City's best interest to require that a variance be sought.

Mr. Katz informed the members that he currently has his jewelry store down the street and desires to relocate to this building. He stated that he will remodel the building and needs this addition to provide additional security to the building as last year he suffered two break-ins. He stated that this addition is also necessary to make better use of the space. He indicated that he will not eliminate any existing parking and that the number of spaces will remain the same. He stated that the City and the architect have looked at the site and that there is no way to add another parking space to meet Code requirements. He informed the members that he has valet parking now and that the City has agreed to move the valet service to this new building (2 spaces). He stated he hopes to park cars in the rear, but he may have to use on-street parking as

well. He stated that he has been offering valet parking service since 1993. He stated that his store does not produce high traffic volume and that his plans for the building will be an improvement over the existing conditions. Other photographs of the site were distributed to the members.

Chairman Soule asked that all the photographs presented by the applicant be market collectively as Applicant's Exhibit 1.

Mel Disney noted the ½ dozen windows at the rear. He asked if this addition will contain a rear entry door.

Mr. Katz replied "no". He stated that he has not had architectural drawings prepared as of yet.

Mel Disney asked if there will be a back door.

Mr. Katz replied "yes" as the Code requires one.

Chairman Soule asked what, if anything, did staff determine how this addition will affect the parking demand.

Jason Jaggi indicated that staff believes this addition to be inconsequential with regard to parking. He stated that the area for the addition is not currently used for parking.

Chairman Soule asked how staff believes the addition will affect the character or use of the property.

Jason Jaggi indicated that staff believes the addition will be an improvement. He stated that the building needs attention and believes the end result will be beneficial to the City.

Chairman Soule commented that Mr. Katz had identified three alternatives and asked Jason to briefly explain them.

Jason Jaggi indicated that the applicant provided the following three alternatives to the request for variance:

1. Doing nothing. The roof needs to be replaced and outside walls need extensive repair. The security is inadequate under current configuration.
2. Build out as shown adding one additional parking spot. The architect, builder, and the city examined space and concluded that there is not sufficient area to add additional space.
3. Stay in my existing location through the balance of my lease term.

Jason stated that standard size spaces are 9 X 18 and the Code requires each space have direct access to a roadway.

Chairman Soule noted that this building (with regard to parking) is no different than that of its neighbors.

Jason Jaggi concurred.

Mr. Katz commented that he knows that the City, when considering a variance request, cannot take into account economic reasons, but he wanted the members to know that it is a concern and an issue to him.

Chairman Soule asked if the City considered the security issue.

Jason Jaggi replied "yes".

Chairman Soule noted that the Chief of Police has informed Mr. Katz that they will continue the valet parking (verification of such included in the agenda packet material).

Jason Jaggi commented that having valet parking strengthens the appeal and he does not see a significant parking impact with granting this variance.

Chairman Soule asked if there were any other comments from the Board.

None were received.

An unidentified man in the audience indicated that he was only in attendance to hear the proceedings and that he did not wish to provide testimony.

Mr. Katz thanked the Board for their time.

Being no further questions or comments, Chairman Soule made a motion to approve a variance to allow the 352 square foot addition without providing the one (1) additional required parking space. The motion was seconded by Anne Bishop and unanimously approved by the Board.

Chairman Soule informed Mr. Katz that his variance request was granted and wished him luck with the project.

\*\*\*\*\*

Being no further business for the Board of Adjustment, this meeting adjourned at 5:40 p.m.

---

Recording Secretary